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Letter dated 8 June 2006 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

The Counter-Terrorism Committee has received the attached fifth report from Cuba submitted pursuant to paragraph 6 of resolution 1373 (2001) (see annex). I would be grateful if you could arrange for the present letter and its annex to be circulated as a document of the Security Council.

(*Signed*) Ellen Margrethe **Løj**
Chairman
Security Council Committee established pursuant to
resolution 1373 (2001) concerning counter-terrorism

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Annex

Letter dated 2 June 2006 from the Permanent Representative of Cuba to the United Nations addressed to the Chairman of the Counter-Terrorism Committee

[Original: Spanish]

With reference to your letter of 3 March 2006 (S/AC.40/2006/OC.59) I have the honour to transmit to you the fifth report prepared by the Government of Cuba for the Counter-Terrorism Committee established pursuant to Security Council resolution 1373 (2001) (see appendix).

All relevant Cuban institutions participated in the preparation of the attached report, which is both comprehensive and reliable.

We believe that the report provides precise in-depth replies to the questions of the Counter-Terrorism Committee together with additional information which should prove useful to the work of the Committee.

(*Signed*) Rodrigo Malmierca **Díaz**
Ambassador
Permanent Representative of Cuba

Appendix

Fifth report of the Republic of Cuba to the Counter-Terrorism Committee established pursuant to Security Council resolution 1373 (2001)

Introduction

The Government of the Republic of Cuba (hereinafter referred to as Cuba), in accordance with the purposes and principles of the Charter of the United Nations and in full compliance of the international counter-terrorism conventions, reaffirms its total rejection of and firm commitment to combat terrorism in all its forms and manifestations, regardless of where or by whom acts of terrorism are committed, including instances in which States are directly or indirectly involved. In that spirit, Cuba continues to cooperate fully with the Counter-Terrorism Committee (hereinafter referred to as the Committee) established pursuant to Security Council resolution 1373 (2001).

Cuba has submitted five reports to the Committee, in which it has provided detailed information on the fulfilment of its international obligations with respect to counter-terrorism. It has participated actively in the public debates of the Security Council on the Committee's work and has put forward proposals and suggestions relating to that work.

Cuba has repeatedly denounced to the Committee the impunity with which terrorist organizations based in the United States of America (hereinafter referred to as the United States) have planned, incited, funded and carried out terrorist acts against Cuba, with the complicity of the United States Government and — in breach of its obligations under Security Council resolution 1373 (2001) and the international treaties on international terrorism to which the United States is a party — on several occasions with its direct support.

Many Cuban lives have been lost as a result of these acts. A total of 3,478 people have been killed, while another 2,099 have sustained permanent physical injury. The Cuban nation has also paid a high price in economic terms as a result of successive terrorist acts of all kinds of which it has been a target. These acts, as well as the genocidal economic, commercial and financial embargo imposed unilaterally by the United States, have clearly been intended to put an end to the political, economic and social system freely chosen by the Cuban people, in full exercise of their right to self-determination.

Cuba has provided the Committee and other United Nations bodies with documented evidence that countless terrorist organizations operate from United States territory against Cuba with total impunity. Known and self-confessed criminals circulate freely in the streets of the United States, particularly in Miami. These Cuban terrorists, who enjoy impunity in the United States despite their cruel acts of terror against the Cuban people, include Luis Posada Carriles, Orlando Bosch, Gaspar Jiménez Escobedo, Pedro Remón, Guillermo Novo Sampoll, Leonel Macías, Nazario Sargent, Francisco José Hernández Calvo, José Basulto, Rubén Darío López Castro, Roberto Martín Pérez, Silverio Rodríguez Pérez, Rodolfo Frómeta, Ramón Leocadio Bonachea, William Chávez, and so on ad infinitum.[1]

[1] Cuba's first report to the Counter-Terrorism Committee (S/2002/15, 2 January 2002, pp. 137-143).

They are all responsible for the loss of Cuban lives and the suffering of thousands of families in the Cuban archipelago.

Cuba is gravely concerned by the Committee's lack of response to the vast amount of information it has received concerning the terrorist activities of these and other individuals and organizations and by its protection of the Government of the United States. At the time of writing, it is not known whether the Committee has taken any action or whether it has even assessed the information provided or begun to investigate the violations by the United States of its obligations under Security Council resolution 1373 (2001) and the international treaties on international terrorism.

In addition to the illegal protection afforded by the United States to the infamous terrorist Luis Posada Carriles, whose illegal entry into the country was acknowledged by its security authorities from the start, there is new evidence that the United States Government has been complicit in and even supportive of the activities of terrorist organizations that encourage, organize, fund and direct terrorism against Cuba from its territory.

Another case came to light on 19 April 2006 in Los Angeles, California, with the arrest of a certain Robert Ferro, who had in his home the shocking number of 1,571 firearms plus some hand grenades, hidden in secret compartments and rooms.

After his arrest, Ferro declared that he was a member of the anti-Cuban terrorist organization Alpha 66,[2] a group with 100 members in California and Miami, ready and trained to carry out attacks against the Government of Cuba. Ferro also declared to the press that some of the arms were provided to him covertly by the United States Government for the purpose of unseating Fidel Castro.[3]

The United States Government's double standard in its alleged international campaign against terrorism shows clearly when, instead of forestalling, preventing and punishing terrorist activities against Cuba, it continues to hold in its jails the Cuban citizens Gerardo Hernández Nordelo, Ramón Labañino Salazar and Fernando González Llort and the United States citizens René González Sehwerert and Antonio Guerrero Rodríguez, even though the eleventh Circuit Court of Appeals of Atlanta decided unanimously to overturn their long and unjust convictions and order a new trial, voiding the trial that was held without due process guarantees by a federal court in Miami.

Those citizens are completely innocent of the charges against them. Their sole aim was to obtain information about the activities of terrorist organizations, their objective being to save the lives of Cuban and United States citizens.

The Cuban Government reiterates its request to the Committee to evaluate the information provided, inter alia, in documents S/2002/15, S/2004/753 and S/2005/341 with a view to helping to put an end to the impunity that those who have carried out terrorist actions against Cuba enjoy in United States territory.

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[2] Alpha 66, headquartered in the United States, was included by Cuba in the list of terrorist organizations that have acted or are acting against Cuba from abroad, which was made available to the Counter-Terrorism Committee in Cuba's first report (S/2002/15, p. 133).

[3] *Los Angeles Times*, 28 April 2006.

1. Implementation measures

1.1 The Committee notes Cuba's criminalization of the commission and financing of terrorist acts and the importance placed on securing the financial system from use by terrorists as reflected in the enactment of Law No. 93, the Law against Acts of Terrorism, and in the various decrees and instructions issued by the Central Bank of Cuba (referred to in Cuba's previous reports). The Committee would be grateful to know whether Cuba has any plans to:

- **Make funds derived from legitimate sources that are used, or intended to be used, in the furtherance of terrorist activities subject to freezing authority;**
- **Authorize the freezing of funds "without delay" pursuant to paragraph 1 (c) of resolution 1373 (2001).**

Cuba's second report to the Committee (S/2002/1093) contains information pertaining to this question. In that report, the replies to the questions on paragraph 1 (c) described the legislation currently in force for all the institutions in the national banking system, stating as follows:

Paragraph 1 (c) (reply to question 1)

"Banking mechanisms

"Instruction No. 19 of the Superintendent of the Central Bank of Cuba, of 7 May 2002, states that 'banks are under an obligation to report immediately to the competent agencies of the Ministry of the Interior any complex transaction of an unusual magnitude and transactions which have an illicit purpose that indisputably demonstrates that a money-laundering transaction is in progress or that gives reasonable grounds for suspicion that funds are linked to, or will be used to support terrorism. Banks are authorized to take preventive action by blocking or freezing the funds and other financial assets of Cuban or foreign individuals or legal persons under suspicion. If the investigations duly indicate that the suspects are guilty, the latter shall be formally charged before the competent court. If they are found guilty, a firm sentence shall be handed down, and the funds shall be seized by the Cuban Government'.

"Legal mechanisms

"Article 8 of Law No. 93 grants authority to the pre-trial judge, the government attorney or the court to issue an order for the preventive attachment or freezing of the funds and other financial assets, property or economic resources of the defendants, and of any persons or entities acting under the defendants' orders, including funds obtained or arising from assets belonging to or under the control, direct or indirect, of the defendants and of persons and entities associated with them.

"In addition, articles 135, 215, 218, 228, 229 and 230 of the Law on Penal Procedures (Law No. 5 of 1977) establish the obligation to confiscate any property instrumental to or resulting from the offence, to keep it and have it examined by experts where necessary; to enter public or private places for the purpose of confiscating such property and recording and confiscating

documents, correspondence, papers or any other necessary items which may represent property instrumental to or resulting from the offence."

Paragraph 1 (c) (reply to question II)

"The procedure for freezing funds and other financial assets takes in practice 24 hours, running from the date and time of the notice of the order issued by any competent court in Cuba or government attorney. Furthermore, the Cuban justice system has extended the competence of fiscal and security judges to enable them to carry out this process."

Paragraph 1 (c) (reply to question III)

"Banking mechanisms

"As long as there is evidence that irrefutably shows that money-laundering is taking place and that such funds may be used for financing acts of terrorism, irrespective of the nationality and domicile of the individual or legal person holding those funds, banks have the competence to take preventive action to block and freeze such funds.

"If, with due regard for the proper procedures and our national legislation, a request is issued by another country for the freezing of funds of non-resident persons and entities supporting terrorism abroad, the Central Bank of Cuba is free to cooperate with such a request.

"Legal mechanisms

"Article 1.2 of Law No. 93, 'Law against acts of terrorism', regulates this aspect and acts of terrorism are deemed to have been committed on Cuban soil, '... both if the perpetrator uses Cuban territory to carry out preparatory acts or acts related to execution, even if their effects are produced in another country, and if those acts are carried out on foreign soil and their effects are produced in Cuba'.

"With that definition in mind, the same provisions as relate to the first part of the question (article 8 of Law No. 93 and articles 135, 215, 218, 229 and 230 of the Law on Penal Procedures) may be applicable here also."

Furthermore, the reply to question 1 in Cuba's third report to the Committee (S/2003/838) states, inter alia, the following:

"Following the implementation of resolution 91/97 of the Minister-President of the Central Bank of Cuba in 1997, the Cuban banking and financial system has been implementing policy guidelines to prevent and detect illicit capital movements.

"To that end, all commercial banks licensed by the Central Bank of Cuba to open accounts for Cuban or foreign individuals or legal persons, irrespective of the place of residence and the transaction effected in or with Cuba, use the internationally recognized concepts of 'due diligence' and 'know your client' as daily tools. The central and provincial branches of the banks monitor compliance with these two concepts, which are set out in each bank's instructions and procedures manual.

"Furthermore, the banks that are not authorized to carry out the transactions described in the preceding paragraph have the above-mentioned

manuals which contain the regulations established by the Central Bank and tailored to the specific characteristics of each individual bank."

The reply to question 1.6 in Cuba's fourth report to the Committee (S/2004/404) states, inter alia, the following:

"(...) Instruction No. 19 of the Superintendent of the Central Bank of Cuba provides, in its Recommendation No. 6, for 'preventive action by blocking or freezing the funds and other financial assets of Cuban or foreign individuals or legal persons under suspicion'.

"Cuba remains willing to cooperate with any country in combating the financing of international terrorism in accordance with its domestic law, international law and the Charter of the United Nations."

At the time of its first report, Cuba provided the Committee with copies in Spanish and English of the current banking regulations, which laid down the procedures to be followed by the banking offices that report to the commercial banks, in order to counter possible money-laundering and financing of terrorist activities.

1.2 The Committee notes that Cuba will hand over persons to other States under an extradition agreement if that State provides the necessary proof (second report, p. 10). The Committee would appreciate further information concerning the level of proof required in such extradition proceedings. If no extradition agreement has been concluded between a State and Cuba, will Cuba proceed to prosecute the offence? Does article 5 of the Penal Code give the Cuban courts universal jurisdiction with respect to terrorist offences (e.g. if an individual was alleged to have committed a terrorist offence in another State and was later present in Cuba, would the Cuban authorities be able to prosecute the offence)?

The third report of Cuba to the Committee (S/2003/838, pp. 4-5) reads as follows:

" ... Cuba, which has been subjected to continuing terrorist threats over the past 40 years and has unequivocally condemned all acts, methods and practices of terrorism in all its forms and manifestations, wherever and by whomever they may be committed, and has refused to assist or harbour anyone who commits, promotes or is associated with terrorist acts, cannot reject the request of a State to extradite a foreigner accused of terrorist acts such as those provided for by Cuban criminal legislation or by international conventions to which both Cuba and the requesting State are parties. In such cases, Cuba would comply with the principle of aut dedere aut judicare, unless it felt that the alien whose extradition is sought would not be guaranteed a fair trial or that the evidence did not show that the suspect was involved in the offence charged.

"However, Cuba would comply with its duty under its domestic legislation to try those aliens suspected of committing terrorist acts that were planned and perpetrated on Cuban territory, but were committed abroad or vice versa."

In addition, it is worth noting that Act No. 62 of 29 December 1987 (Cuban Penal Code Act; hereinafter the Penal Code) provides for the prosecution of persons

allegedly responsible for terrorist offences committed in another State. In that respect, article 5 of the Act provides:

> ***ARTICLE 5.1.*** *Cuban criminal law is applicable to Cuban nationals and stateless persons resident in Cuba who commit an offence abroad, if they are in Cuba or are extradited.*
>
> ***2.*** *Cuban criminal law is applicable to Cuban nationals who commit an offence abroad and are surrendered to Cuba to be tried by its courts pursuant to treaties to which Cuba is a party.*
>
> ***3.*** *Cuban criminal law is applicable to non-resident aliens and stateless persons who commit an offence abroad if they are in Cuba and are not extradited, whether they reside in the territory of the State in which they perpetrate the offence or elsewhere, provided that the offence is also punishable where it was committed. The last-mentioned requirement does not apply if the act is an offence against the fundamental, political or economic interests of the Republic, or against humanity, human dignity or collective health, or is indictable under the terms of international treaties.*
>
> ***4.*** *Any penalty or part thereof which the offender has served or paid abroad for the same offence shall be deducted from the penalty imposed by the Cuban court; if, however, this is not possible owing to different types of penalties, the adjustment shall be made in the way the court deems fairest.*
>
> ***5.*** *Proceedings under paragraph 3 of this article shall be initiated only at the request of the Minister of Justice.*

1.3 The Committee notes that Cuba has adopted guidelines in order to assist Banks to identify financial transactions which may relate to money-laundering. Is the specific offence of money laundering provided for in the Penal Code?

The Cuban Penal Code provides specifically for the offence of money-laundering. In that respect, Title XIV, Chapter II, of the Penal Code establishes:

> ***ARTICLE 346.1.*** *Anyone who acquires, converts or transfers financial resources or property or the rights attaching thereto or attempts such transaction and who at the same time knows, should know or should reasonably suspect from the timing or circumstances of the transaction that such resources or property are the proceeds, direct or indirect, of acts related to the illicit trafficking of drugs, arms or persons, or organized crime, shall be sentenced to imprisonment for five to twelve years.*
>
> ***2.*** *The same penalty shall be incurred by anyone who knowingly conceals the true nature, origin, location, destination, movement or ownership of the financial resources or property or the rights attaching thereto or who knowingly impedes the determination thereof and who at the same time knows, should know or should reasonably suspect from the timing or circumstances of the transaction that such resources or property are the proceeds of the offences set forth in the preceding paragraph.*
>
> ***3.*** *If the offences set forth in the paragraphs above are committed by virtue of inexcusable ignorance, the sentence shall be imprisonment for two to five years.*

4. The offences set forth in this article shall be punished without regard to other offences committed on the same occasion.

5. Those who are found guilty of the offences set forth in the preceding paragraphs shall also be subject to the additional penalty of confiscation of property.

1.4 The Committee notes Cuba's membership in the World Customs Organization and the difficulties noted by Cuba in securing advance information on passengers and cargo from countries of departure. Reference is made in Cuba's fourth report to the possibility of adopting legislation to make it compulsory for airlines to provide such advance information. Has there been any progress in this respect?

In terms of passenger and cargo inspection, the General Customs Administration of the Republic has been coordinating with airlines that have regular flights to Cuba in order to obtain advance information.

Work on an advance passenger information (API) system is in progress. Pilot studies are being conducted with selected flights.

The legislative basis for establishing the provision of API on an obligatory basis remains in the study phase.

1.5 In light of the importance of coordinated and timely information exchange in order to ensure that appropriate action is taken to prevent the entry of goods that could potentially be used in terrorist attacks, the Committee would appreciate additional information on the following points:

Which Cuban agencies share information related to goods that could potentially be used in terrorist attacks (e.g. Customs, the Ministry of the Interior and trade authorities)?

How is such information shared (e.g. electronic means)?

To what extent is advance information on cargo currently received by Cuba in relation to goods coming by sea or through international mail?

Cuba has a system of ministries to combat crime in compliance with national legislation; it is coordinated by the Ministry of the Interior and prioritizes the fight against terrorism. The system includes the General Customs Administration of the Republic, the Department of Immigration and Alien Affairs, the Border Guard Troops and the Port Authorities.

The General Customs Administration of the Republic uses radiology technology for carry-on and checked luggage in its fight against terrorism. Every single piece of luggage and all cargo that enters and departs from the country must go through these machines. Similarly, dogs trained in the detection of explosives are used for sea, air and postal border crossings. The Administration also has automated databases for the monitoring and inspection of travellers, cargo and vehicles. In addition, it has the responsibility of ensuring that civil aviation security requirements on international flights are met.

The Administration receives the advance cargo manifest from ships; in 2005 it began to receive this information electronically.

It operates on a risk-analysis basis, following the recommendations and criteria of the World Customs Organization. Accordingly, passengers, cargo, vehicles and postal packages that pose a risk, real or potential, are singled out for inspection, thereby guaranteeing the security and speed of the legitimate flow of trade and tourism and avoiding any impact on national security.

1.6 The Committee notes that Cuba is a member of the World Customs Organization (WCO) and that the WCO Council in June 2005 in Brussels adopted a Framework of Standards to Secure and Facilitate Global Trade which are designed in part to secure trade against the threat of global terrorism while facilitating the movement of legitimate trade. The Committee would be appreciative of receiving information on what steps Cuba is taking to implement these standards.

The General Customs Administration of the Republic wants to further enhance security in the country's ports. To this end, it has introduced X-ray equipment for use in container inspections at the Port of Havana, which handles most of Cuba's sea operations.

In the Port of Havana crews enter the country via a single point of access where their belongings are examined by X-ray.

The rest of the country's ports apply experience obtained in the Port of Havana.

Automated systems are used in the ports to inspect crews, cargo, entities and vehicles.

1.7 In relation to the movement of persons, the Committee would be interested in receiving more information as to:

How are lists of persons of potential interest disseminated to officials?

Lists are issued in notices allowing or prohibiting entry or departure, according to the case.

How are such lists used to screen persons entering and departing from Cuba?

Immigration authorities have such notices in the authorized registers at all of the country's international border points (ports and airports), and they act on a case-by-case basis. In addition, applications for entry visas are verified through similar registers.

Does Cuba employ a means of communicating alerts concerning wanted or suspected terrorists to immigration authorities at various points of entry? Does this method include International Criminal Police Organization (Interpol) information on Red Notices (for arrest) and Blue Notices (for location)? If so, how is this done?

Yes, Cuba has a system for communicating alerts concerning wanted or suspected terrorists. Information database networks are used in order to communicate these alerts to immigration authorities at the various points of entry. Also, Interpol-Havana directly informs the immigration and security authorities about the Notices so that they can issue circulars.

In the absence of advance information on passengers entering by air, what alternative methods has Cuba put in place to reduce the risk of persons associated with terrorism seeking safe haven in Cuba?

As indicated in the reply to question 1.4 above, Cuba is working on the introduction of API. Pilot studies are currently being conducted using selected flights.

The relevant authorities receive advance information about passengers who enter the country by air when they apply for an entry visa at one of Cuba's consulates.

National security authorities also have systems for the detection of persons who raise suspicions at the border and during their stay in Cuba. Cuba is enhancing on a selective basis the detection of persons suspected of being associated with terrorist activities.

1.8 The Committee takes note of the information that no suspicious transactions were reported by Cuban financial institutions in 2003. Have there been any such reports in 2004 and 2005?

Suspicious transactions reported during 2004 and 2005 were mainly by foreign juridical persons doing business in Cuba which had violated banking regulations while using their bank accounts. The precautionary measures laid down in the banking regulations of the Central Bank of Cuba and the current preventive measures in the instructions and procedures manuals of the commercial banks were applied to these entities.

A very small number of suspicious transactions by Cuban commercial and productive entities was detected.[4] They were reported in each case to the corresponding control office of the Ministry of the Interior in accordance with our banking regulations and one of the 40 recommendations of the Financial Action Task Force on Money-Laundering (FATF). Where deemed necessary, adequate precautionary measures were taken in these cases, generally by freezing the account until the legality of the transaction was clarified.

No suspicious bank transactions related to the financing of terrorists or terrorist activities have been detected in Cuba.

Cuba's banking system has several hundred branches and all have the Security Council Sanctions Committee list, which is systematically updated. This list is used in bank offices in order to strictly abide by the internationally accepted "know-your-customer" principle and the "due-diligence" obligations included in the 40 FATF recommendations.

1.9 The Committee notes that, in Cuba, the formal banking system is the sole lawful means of conducting financial transactions and would be interested to know whether there have been any studies of informal and illegal financial transactions conducted in Cuba. Is Cuba able to estimate the extent of transactions occurring outside the formal recognized system? Have any non-penal measures been introduced to affect such informal financial networks?

[4] This information is considered confidential, in accordance with the Bank Secrecy Regulations issued by the Central Bank.

In accordance with Decree-Law No. 172 of 28 May 1997 concerning the Central Bank of Cuba, the Cuban banking system does not have the authority to analyse informal financial transactions conducted outside the Cuban banking system.

The Committee refers to informal and illegal transactions; if such transactions exist, they must be inconsequential compared to the millions of transactions, worth billions of Cuban pesos conducted by natural and juridical persons and handled by bank offices every year, or the money flows in the thousands of current accounts or millions of savings accounts kept by people in bank branches.

A system for the prevention of corruption and illegal activities was established in 1997 in all Cuban commercial banks in order to protect them against misuse by unscrupulous people, as provided in the regulations issued by the Central Bank since that time. The principal provisions are in Instruction No. 19 of 19 May 2002 and Instruction No. 26 of 30 July 2004, both signed by the Superintendent of the Central Bank. These banking regulations are based on our own experience, the recommendations of the Basel Committee on Banking Supervision (BCBS), and FATF and the international experience of other banking systems.

Cuba's commercial banks, from the central offices to the branches in the 169 municipalities of the country, have technical councils on fraud prevention, made up of high-level professional leaders and oversight officers, together with internal auditors, in charge of control and supervision of compliance with banking regulations, in order to prevent the misuse of bank offices by unscrupulous individuals and criminals for money-laundering activities. The Council analyses all unusual transactions to determine whether they are suspicious and to inform the corresponding authorities of the Ministry of the Interior, the Attorney-General of the Republic and the Ministry of Audit and Control, according to the case.

In addition, the General Customs Administration of the Republic has established procedures designed to enable border personnel to spot attempts to bring large sums of money into the country.

1.10 The Committee notes the role of the Cuban Ministry of the Interior in overseeing firearm imports and exports. What mechanism is used to verify the authenticity of licensing documents for the import, export and transit of firearms?

Decree-Law No. 52, of 24 March 1982, concerning arms and ammunition regulates matters relating to arms imports in chapter VI, article 3, where it establishes that the offices of the General Customs Administration of the Republic will not authorize or permit the removal of firearms, accessories, percussion caps or cartridges from customs premises without prior approval of the required authorization from the Ministry of the Interior. Customs inspects the authenticity of the signatures authorizing firearms imports since it has access to those signatures.

In regard to exports, Decision 19/82, (art. 27) concerning the regulations for Decree-Law No. 52/82 establishes that only the National Institute of Sport, Physical Education and Recreation (INDER) is authorized to export on a temporary basis firearms for target-shooting competitions abroad. INDER must apply for a permit from the National Revolutionary Police and submit it to the Customs authorities in order to send abroad the firearms specified in the document approved by the Chief of the National Revolutionary Police.

1.11 The Committee would be grateful for further information on Cuba's procedures concerning the purchase of firearms, in particular the conditions established under the licensing system for such purchases; whether transfers of such licences are permissible, and which agency is responsible for monitoring the validity and/or expiration of licences. The Committee would also be interested to know what standard operating procedures have been put in place to prevent unauthorized persons from gaining access to firearms held by the Armed Forces, the Ministry of the Interior, the security and protection services authorized by the State to guard civilian targets, and other legal weapons holders? Have special measures been put in place to prevent the forging of licences for the trade in firearms and other weapons?

The issue and control of firearms licences are regulated by Decree-Law No. 52 of 24 March 1982 on the issue and control of firearms licences.

The purchase or acquisition of firearms abroad is authorized solely by the Ministry of the Interior after the head of an agency makes a justified request relating to the safety and security of State bodies, bird control at airports or hunting for research purposes. The purchase of firearms abroad and the import of firearms are carried out by a single agency that was established and registered for these purposes.

Licences are not issued to natural persons except in the case of tourists, who are issued licences by the National Revolutionary Police to visit Cuba for hunting tourism and who travel with a permit or licence from their country of provenance. Similar arrangements are made for foreign teams that are invited to participate in sporting events organized by INDER.

The security and protection system of the storage and other facilities for firearms in Cuba only allows access to authorized persons. In this connection, Decree-Law 186/99 on the system of security and physical protection regulates the establishment of security and protection services and internal security units that provide security and protection services to legal persons. The Protection Directorate of the Ministry of the Interior decides whether to authorize these services with firearms.

To prevent access by unauthorized persons to firearms belonging to the Revolutionary Armed Forces, there is a regulatory basis for the procedures that ensure the safe and reliable storage of all types of weapons, including the regular monitoring and protection of inventories.

The weapons are registered and monitored quantitatively and qualitatively using an inventory system that includes the company that made the weapon, the year of production and the serial number, thereby facilitating identification and tracking.

Cuba has no special measures to prevent the obtaining of licences for the trade in firearms and other weapons because the sale of weapons is not permitted to or between natural persons or between juridical and natural persons.

1.12 The Committee notes Cuba's specific criminalization of terrorism in Law No. 93 and would be interested in information regarding any special procedures for the investigation of terrorism offences. Are such investigations governed by the general criminal procedure, or are additional powers granted to law enforcement officials in such cases? Are there any special criminal procedural

laws which apply only to persons suspected of participating in or planning terrorist acts, and do these extend also to persons believed to have relevant information on such acts?

In Cuba, there are no special criminal procedural laws that apply only to persons suspected of participating in or planning terrorist acts, including persons believed to have relevant information about such acts.

The investigations of terrorist offences are governed by general criminal procedure in accordance with Act No. 93 of 20 December 2001, the Acts of Terrorism Act. As in the case of other offences, these investigations are governed by Act No. 5 of 13 August 1977 (Criminal Procedures Act) or by Act No. 6 of 8 August 1977 (Military Criminal Procedure Act), depending on which one is applicable. The general part of the Penal Code and the Military Offences Act are also applicable to these offences, as there is no specific legislation that establishes special criminal procedures for terrorism.

1.13 The Committee would appreciate receiving a progress report on:

- **Any developments in relation to the law applicable to extradition (second report, p. 17);**

There have been no developments in relation to the law applicable to extradition.

- **Any arrangements entered into with other countries of the region with respect to cooperation on combating terrorism, including formal arrangements for the sharing of information relating to border and immigration controls and financial transactions;**

Cuba has continually sought new forms of bilateral cooperation based on mutual respect and the sovereign equality of States in order to combat international terrorism. The Government of the United States of America, using false and irrational arguments, rejected a proposal made by Cuba to establish a bilateral counter-terrorism programme. That proposal was made on 29 November 2001 and repeated on 3 December 2001, 12 March 2002 and 17 December 2002 during the nineteenth round of the discussions on immigration between the two Governments.

The sharing of information relating to financial transactions in the national banking system is carried out in accordance with the regulations on banking secrecy and Instruction No. 26, issued by the Superintendent of the Central Bank of Cuba on 30 July 2004. This instruction is currently being revised with a view to introducing new elements based on our own experience and the updating of international recommendations and interpretations relating to financial transactions.

As regards financial transactions that seem unusual (atypical), the technical councils on fraud prevention are responsible for analysing them carefully to establish if they are suspicious.

Should a technical council on fraud prevention reach the conclusion that one of these unusual transactions is suspicious, the instructions of the Superintendent of the Central Bank establish with whom and how information-sharing and cooperation should be established.

- **Any special counter-terrorism policies focused on the links between terrorism and other criminal activities;**

The Government and judicial system of Cuba share the same approach and conviction that all criminal activities linked to terrorism should be confronted with the same rigour as the terrorist acts to which they are linked, in full compliance with international treaties on the prevention and suppression of terrorism to which Cuba is a party. This position is an expression of Cuba's firm commitment in the fight against terrorism and its willingness to cooperate with other States in the prevention and suppression of all acts of this nature with a view to strengthening from a legal standpoint the defence of its people against terrorism.

- **Any programmes instituted to prevent the falsification of travel documents issued in Cuba.**

A system has been established to prevent the falsification of travel documents issued in Cuba.

The following reply was submitted in the supplementary report of Cuba to the Counter-Terrorism Committee under paragraph 2 (g), "*Please explain how the procedures for the issuance of identity papers and travel documents help prevent counterfeiting, forgery or fraudulent use of those documents:*"

"***Legal mechanisms***

"*Passports are considered official documents because they are issued and authorized by public officials according to the specific criteria established by law and because they contain visa stamps. For this reason, passport forgery constitutes an offence under the head of forgery of official documents which is defined in article 250 of the Penal Code and carries a sentence of three to eight years' imprisonment.*

"*Forgery of identity cards, provisional identity papers or other identity papers; use or possession of such forged documents; and manufacture, introduction or possession of instruments used for forgery are punishable under articles 252, 255 and 259 of the Penal Code.*

"***Other mechanisms***

"*Article VII of the Penal Code deals with offences involving official documents; Chapter III, article 255, thereof covers document forgery, which is punishable by a prison sentence of three months to one year or a fine. According to paragraphs D and E of article 255, the submission of such documents to a government authority or official carries a penalty.*

"*Article 259 of the Code makes the manufacture, introduction or possession of instruments used in the forgery of such documents punishable by two to five years' imprisonment.*

"*Consideration is being given to incorporating security mechanisms into identity and travel documents in order to detect their forgery. These protection and security measures have been modernized and improved and are used in the case of identity cards and passports.*

"*Cuban and foreign travellers are carefully checked at all border points upon arrival and departure by specialized officials of the Ministry of the Interior's Department of Immigration and Aliens.*"

Cuba is continually researching and introducing state-of-the-art technology to strengthen the security measures used in the travel documents issued in Cuba.

2. Implementation of resolution 1624 (2005)

Paragraph 1

2.1 What measures does Cuba have in place to prohibit by law and to prevent incitement to commit a terrorist act or acts? What further steps, if any, are under consideration?

Following the adoption of Security Council resolution 1624 (2005), it was not necessary for Cuba to make changes to its legislation to prohibit by law the incitement to commit a terrorist act or acts. Article 5, paragraph (c), of Act No. 93 (Acts of Terrorism Act) establishes the following:

"Article 5: Under this Law, preparatory acts, attempts and consummated acts of terrorism shall be punishable in connection with the offences envisaged in this Law. Likewise, under the rules established in the Penal Code for preparatory acts, the following shall be punished:

(c) Any person who incites or induces another or other persons, by spoken word, in writing or in any other form, publicly or privately, to carry out some of the offences envisaged in this Law. If the offence is committed following such incitement or inducement, the person who provokes it shall be punished as the perpetrator of the offence committed."

2.2 What measures does Cuba take to deny safe haven to any persons with respect to whom there is credible and relevant information giving serious reasons for considering that they have been guilty of incitement to commit a terrorist act or acts?

When any persons linked to terrorism are detected at international border controls, they are refused entry into Cuba.

When any persons are detected within the national territory with respect to whom there is credible and relevant information giving serious reasons for considering that they have been guilty of incitement to commit a terrorist act or acts, they are tried in accordance with the applicable national legislation.

Paragraph 2

2.3 How does Cuba cooperate with other States in strengthening the security of its international borders with a view to preventing those guilty of incitement to commit a terrorist act or acts from entering their territory, including by combating fraudulent travel documents and, to the extent attainable, by enhancing terrorist screening and passenger security procedures?

Cuba cooperates with other States in international border control and surveillance by means of the integrated system of the Ministry of the Revolutionary Armed Forces and Ministry of the Interior, which are supported from a legal perspective by Act No. 1312 (Migration Act) and Act No. 1313 (Aliens Act), both of 20 September 1976, and by Act No. 93 (Acts of Terrorism Act).

In the immigration controls carried out by the Ministry of the Interior, priority is given to detecting false and altered travel documents (passports, visas, etc.) and when one of these is detected, travel is suspended and an investigation is carried out by the specialized bodies.

The border agencies carry out their own operational actions with a view to monitoring and protecting the territorial waters of the Republic of Cuba.

The system of port authorities ensures compliance with the main international conventions relating to maritime security and seafarers' identity documents by carrying out controls, with a view to deterring and preventing the use of international means of transportation for terrorist activities.

Its officials, when giving clearance to ships and small vessels, check that the members of the crew have valid seafarers' identity documents and the appropriate level of seamanship. The inspections provided for by the Code concerning the protection of shipping and maritime facilities are also carried out, with a view to detecting the presence of weapons, explosives, drugs and other material and substances capable of being used in terrorist activities.

They monitor access to ships or small vessels on the basis of identification documents and carry out coastguard services using evidence and information that they have gathered or that other authorities or peer organizations have transmitted to them. There is also a sharing of information regarding compliance with the safety and security system of ships in port.

Paragraph 3

2.4 What international efforts is Cuba participating in or considering participating in/initiating in order to enhance dialogue and broaden understanding among civilizations in an effort to prevent the indiscriminate targeting of different religions and cultures?

The Government of the Republic of Cuba attaches the utmost importance to the central role that the international community, through the United Nations system, has to play in protecting and promoting dialogue among civilizations and international cultural cooperation, based on the principle of full respect for the political, economic, cultural, social and religious diversity of every society, strictly in keeping with the purposes and principles of the Charter of the United Nations.

Cuba firmly supports any effort undertaken within the framework of the United Nations system, including UNESCO, to preserve and promote the development of the diverse identities, cultures and religions of all peoples and nations.

For several years, Cuba has voted in both the General Assembly and the former Commission on Human Rights in favour of a draft resolution presented by the members of the Organization of the Islamic Conference entitled "Combating defamation of religions". Furthermore, Cuba also joined the consensus in both bodies on an initiative of the European Union entitled "Elimination of all forms of intolerance and of discrimination based on religion or belief".

Cuba submitted a draft resolution to the United Nations Commission on Human Rights — adopted with broad support from its members — on promotion of the enjoyment of the cultural rights of everyone and respect for different cultural identities. Cuba has been upholding the need to appoint an independent expert on this issue.

Our country also endorsed the resolution on the protection of human rights and fundamental freedoms while countering terrorism, sponsored by Mexico in the Commission on Human Rights and the Third Committee of the General Assembly.

Cuba has supported and played an active role in negotiating the international Convention on Protection and Promotion of the Diversity of Cultural Expressions, adopted within the framework of the thirty-third General Conference of UNESCO. Cuba was one of the countries that voted in favour of the adoption of this instrument and is currently considering the possibility of becoming a State party to it.

Cuba considers that respect for cultural identities throughout the world is an indispensable condition for the preservation of cultural diversity, which should be understood as the common heritage of humanity as well as a valuable element of progress and general well-being, and for preserving peace. Culture is a source of development, understood not simply in terms of economic growth, but also as a means to achieve a more satisfactory intellectual, emotional, moral and spiritual existence.

Cuba has reaffirmed the need to implement the international community's consensus that respect for different civilizations and cultural rights is an integral part of human rights, which are, therefore, universal, indivisible and interdependent.

Although the development of information technologies in the age of globalization could undoubtedly offer benefits for the full development and respect for all cultures, cultural diversity has never been at such risk as nowadays. The unipolar hegemony exercised by the United States in economic, political and military international relations has had a symmetrical effect on the imperialist policy promoted by that country and its principal allies in the cultural sphere.

The profound educational, informational and cultural gap between the countries of the North and those of the South has widened as a result of the lack of access of most people who live in the so-called South to the new information and communications technologies.

In fact, employing more subtle methods, practices associated with colonialism used during the eighteenth and nineteenth centuries are being repeated. The value and wealth of age-old cultures are plundered and even denied by the Powers who aspire to exercise global domination.

In this context, civilizations and religions, such as Islam, are the particular target of imperialist propaganda in order to discredit and even demonize them; Cuba firmly rejects this.

Lack of respect for cultural diversity and erroneous racist, discriminatory and xenophobic ideas about the superiority of races, cultures and nations which only benefit the powerful have been among the basic causes of tragic conflicts throughout history, and their repetition should be avoided.

Cultural cooperation presupposes respect for diversity. Interaction enriches each culture and, provided that it takes place on a basis of mutual respect, contributes to the voluntary acceptance of universally shared values. The recognition of universal values cannot be achieved by forcibly imposing on others the patterns of one particular culture or civilization.

Uniformity merely impoverishes humankind. Forms of universalism must be reconciled with respect for a wide diversity of languages, cultures, ethnic groups, nations and ways of thinking that allow individuals, communities and nations to have a sense of belonging and identity. To develop culture by ensuring a harmonious blend of universal, regional, national and local values is a difficult, but not impossible, task and one that is essential for guaranteeing world peace.

The Government of Cuba has been guided by the foregoing principles in developing the country's cultural policy since 1959. In recent years, in coordination with the country's social and grass-roots organizations and with their participation, it has decided to expand and intensify the cultural and educational efforts of the Cuban Revolution to preserve the national cultural identity and to expand, even further, the knowledge and appreciation of the best of universal culture. At present, Cuba is carrying out a new educational revolution that transcends our country's borders. Through the new educational programmes that have been implemented and the courses offered at the different levels of education in Cuba, the study of the different civilizations and customs of the diverse cultures of the world has been promoted.

The Cuban nation, being the product of a blend of various cultures, beliefs and races and having, like few others, had to combat attempts at annexation and assimilation of its identity by the most powerful country in history, situated a mere 90 miles from its shores, values and appreciates the importance of respect for cultural diversity.

In this regard, it is worth noting that, according to articles 41 and 42 of the Cuban Constitution of 24 February 1976: "*All citizens have equal rights and are subject to equal duties. Discrimination because of race, skin colour, sex, national origin, religious beliefs and any other form of discrimination harmful to human dignity is forbidden and will be punished by law. The institutions of the State educate everyone from the earliest possible age in the principle of equality among human beings*".

2.5 What steps is Cuba taking to counter incitement of terrorist acts motivated by extremism and intolerance and to prevent subversion of educational, cultural and religious institutions by terrorists and their supporters?

As of 1959, the Cuban Revolution allowed the Cuban people to truly exercise the right to freedom of opinion and expression, by creating the necessary conditions for the enjoyment of that freedom and by placing all the means of information and communication in the hands of the people. Every Cuban has access to means of communication, which are used to serve the imperative needs of society and to educate children and young people in a spirit of social justice, liberty, equality and human solidarity. Consequently, there is no place in these media for incitement of terrorist acts.

Additionally, in Cuba, there is full freedom of belief or religious practice, irrespective of creed, which is established and protected in several articles of the Constitution. According to article 8 of the Constitution: "*The State recognizes, respects and guarantees religious freedom. In the Republic of Cuba, religious institutions are separate from the State. The different creeds and religions enjoy equal consideration.*"

A wide diversity of religious institutions and manifestations exist in Cuba, including the Catholic Church, 48 Protestant or Evangelical denominations, several Afro-Cuban religions, the Hebrew community, several manifestations of Spiritism, Bah'ais, Muslims, and also Buddhists of several traditions, as well as those practising yoga. The State and society allow all of them to conduct their activities with full freedom and respect. There are no manifestations of racial intolerance in the country, and there is no confrontation between the diverse religious ideas; to the contrary, a climate of respect and dialogue exists among them.

All religious institutions and manifestations are equal before the law and conduct their activities in full autonomy and independence from the State. They have their own property and are regulated by their own provisions in everything relating to their national religious activity and their linkages with the corresponding sectors and institutions abroad, as well as with international organizations and agencies, either of their own affiliation or ecumenical. To this end, they also have ample freedom of communication and movement, even for visits to our country by the representatives of institutions abroad.

Since 1935, Cuba has maintained uninterrupted relations at the highest diplomatic level with the Vatican; and for several decades, Cuban Evangelical Churches have been part of the World Council of Churches, with headquarters in Geneva. Cuban ecumenical organizations have links with this organization, as do Cuban authorities.

The Cuban Evangelical Churches, their ecumenical organizations, and national authorities also have linkages with the National Council of the Churches of Christ in the USA, the Latin American Council of Churches (CLAI), and other international ecumenical organizations and agencies.

The same situation exists with regard to relations between the institutions of the Cuban Hebrew community and other national and international Jewish institutions, with which Cuban authorities also maintain contacts. This community maintains international relations with institutions and public figures living in Israel, a country with which Cuba does not have diplomatic relations.

Other religious institutions and practices enjoy the same conditions.

Senior officials and representatives of different churches and religious institutions from around the world frequently visit Cuba to meet with their national counterparts; they are also received by the country's highest authorities.

State policy towards religious institutions and manifestations supports ecumenism, including macro-ecumenism, which encourages and develops understanding and relations among the different beliefs that exist in the country: Christians, Jews, Muslims, Afro-Cuban religions, Spiritists, Buddhists, etc., not only in their national activities, but also as regards their assistance at ecumenical, interdenominational, macro-ecumenical and social events, etc.

This positive policy towards mutual understanding and even collaboration on social projects and in the elaboration of declarations and undertakings that lead to knowledge and understanding of the ethical, moral and human aspects shared by the different creeds includes the State's permanent dissemination of the most positive points of view in this regard and the prohibition of intolerance, racism, injustice, discrimination, etc.

Consequently, in Cuba the conditions do not exist for incitation of terrorist acts motivated by extremism and intolerance and, in particular, for subversion of educational, cultural and religious institutions by alleged terrorists and their supporters.

Paragraph 4

2.6 What is Cuba doing to ensure that any measures taken to implement paragraphs 1, 2 and 3 of resolution 1624 (2005) comply with all of its obligations under international law, in particular international human rights law, refugee law, and humanitarian law?

Cuba is complying fully with its legal obligations under international law, including those arising from international human rights law, refugee law, and humanitarian law. The competent national authorities comply with these obligations by preventing and dealing with terrorism.

The Constitution of the Republic of Cuba recognizes and protects all the human rights proclaimed in the Universal Declaration of Human Rights in the articles of chapter VII entitled "Fundamental rights, obligations and guarantees".

It should be noted that both the Constitution and the Criminal Procedure Act establish all the necessary guarantees for due process, so that all accused persons, even those involved in cases related to terrorism, enjoy adequate protection of their rights.

The human rights protection system has evolved appreciably in Cuba, and has been complemented by legal provisions that grant the Office of the Attorney General of the Republic specific functions to ensure increased protection of the civil rights of the individual.

Under article 8 (c) of Act No. 83 of 1997 (Office of the Attorney General of the Republic Act), the Office of the Attorney General received the express mandate of responding to all claims, complaints and reports submitted by citizens concerning alleged violations of their rights and, under article 24 (2) of this Act, that of ordering, by means of a decision issued by the Attorney General, the re-establishment of due process, should it have been violated.

In Cuba, anyone, whether a Cuban citizen or a foreigner, may assert his rights before the courts or the competent authorities, in order to defend them when they have been violated.

3. Assistance and guidance

The Republic of Cuba has taken note of the Committee's preliminary analysis, with the assistance from its Executive Directorate experts, regarding the country's alleged technical assistance needs, referred to in paragraphs 3.2, 3.3 and 3.4 of the letter from the Chairman of the Committee (S/AC.40/2006/OC.59).

It would, however, like to draw the Committee's attention to the following:

- In Cuba, since the beginning of the 1960s, the National Banking System has belonged to the State, and managers, administrators and staff have been trained to a high level of technical and professional capability, a situation enhanced by the creation of the Central Bank of Cuba in 1997.

- Since 1997, the National Banking System has been systematically developing, in both theory and practice, actions to prevent and deal with possible money-laundering operations and the financing of possible terrorist activities.

- During this time, a National Banking Training Centre has existed, which systematically offers postgraduate, master's and diploma courses, with a faculty of highly qualified professors. This Centre also offers courses on different topics given by adjunct professors, who are experts with considerable experience in banking and other areas, including the prevention of money-laundering.

- Since 2005, the National Banking Training Centre has been offering advanced training on topics such as "know your customer", "due diligence", analysis of suspicious operations, and techniques for falsifying different means of payment, to the oversight officers of the National Banking System.

- For several years now, the position of oversight officer has existed up to the branch office level; in the work of preventing possible money-laundering operations, these officers are guided by the provincial directorates or the central office of the commercial banks, as applicable.

- When drawing up banking regulations, Cuba has taken into account the recommendations of the Basel Committee and of FATF and, particularly, the practical work carried out by the administrative directors, oversight officers and staff in general, up to the banking office level.

- Up to the branch office level a technical committee for the prevention of fraud operates; it is responsible for examining unusual (atypical) operations and, following a thorough analysis, determining which of them are suspicious and should be reported to the corresponding supervisory authorities.

- The Technical Council on Fraud Prevention was set up within the Central Bank of Cuba several years ago. Its tasks include: "*to study and propose new preventive measures against possible money-laundering activities*".

- All these actions carried out within the National Banking System have a significant effect on the other bodies of the State's Central Administration, which are aware of the banking regulations for the prevention of money-laundering operations, and also of how collaboration has been established at the central level of the State in order to prevent any attack from outside our country by criminal organizations and the Mafia.

- Throughout this process, we have consulted and benefited from the best international practices, which we have taken note of and incorporated, taking into account our own circumstances and needs. It should be recalled that, when complying with its international commitments, our banking system must, at times, overcome the insurmountable obstacles set up by the illegal policy of the unilateral blockade imposed on Cuba by the Government of the United States of America. Many of our managers have received training or shared experience with the most highly qualified international experts in this area. With all modesty, Cuba considers it has sufficient trained administrators and officials to honour the obligations that have been imposed on it by the international fight against terrorism, corruption, transnational organized crime,

and other international crimes that benefit from illegal transboundary financial operations.

Taking into consideration the elements cited above, the Republic of Cuba, while expressing its appreciation for the cooperation offered, considers that it does not need to receive technical assistance and guidance for training in money-laundering investigation techniques and the other areas included in paragraph 3.3 of the letter of the Chairman of the Committee. In this regard, the efforts and resources that the Committee may have for this type of activity could be better used in providing assistance to other countries that may require it.